

Message Text

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43

ACTION EA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07 L-02

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FM AMEMBASSY MANILA

TO 13 AF (SJA)

CINCPACAF HICKAM AFB

NAVY JAG WASHDC

CSAF (JACI) WASHDC

CINCPACREPPHIL (SJA)

CINCPAC

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3 CSG (JA)

SECSTATE WASHDC 2555

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E.O. 11652: N/A

TAGS: MARR, RP

SUBJECT: GOP CONCERNS REGARDING OFFICIAL DUTY CASES

REF: 13 AF MSG 220335Z APRIL 75

1. WHILE REFTTEL CORRECTLY REFLECTS SUBSTANCE OF
OBITER DICTUM STATEMENT MADE BY ACTING JUSTICE SECRETARY
MACARAIG AT LAST CJIC MEETING IN FEB., SUBSEQUENT CONVERSATIONS
BY EMBOFFS WITH MACARAIG REVEALS CONTINUING CONCERN
OVER LEGALITY OF OFF-BASE SEARCH BY US MILITARY LAW
ENFORCEMENT OFFICIALS. HE SPECIFICALLY STATED THAT
DIFFICULT TO JUSTIFY SUCH PROCEDURES UNDER PHIL
CONSTITUTION WHICH PROVIDES PROTECTION AGAINST SEARCHES
NOT IN ACCORDANCE WITH PHIL CRIMINAL PROCEDURES TO ALL
INDIVIDUALS, BOTH FOREIGNERS AND NATIONALS, PRESENT IN
PHILIPPINES. THEREFORE, STILL TECHNICAL PROBLEM OF
COMPLYING WITH PHIL LAW EVEN IF ONLY US FORCES PER-
SONNEL AND THEIR LEASED DWELLING INVOLVED IN OFF-BASE
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SEARCHES. HE SUGGESTED THAT A PRE-CONSENT AUTHORITY

TO SEARCH BE INCORPORATED INTO THE PERMISSION GRANTED BY BASE AUTHORITIES TO INDIVIDUAL SERVICEMEN LEASING A DWELLING OFF BASE. IN HIS OPINION, THIS POSSIBLY MIGHT PROVIDE ONE SOLUTION TO PROBLEM AND SATISFY PHIL LEGAL REQUIREMENTS. HOWEVER, HE WAS NOT AT ALL SURE HOW THIS CONCEPT OF PRE-CONSENT WOULD WITHSTAND JUDICIAL CHALLENGE IN PHIL COURTS.

2. OFF-BASE POLICE ACTIVITY, INCLUDING SEARCHES, IS AGENDA ITEM FOR FORTHCOMING CJIC MEETING IN MAY. MACARAIG HAS ACCEPTED INVITATION TO ATTEND AND MATTER WILL BE FULLY EXPLORED WITH HOPE THAT LEGAL AND PRACTICAL SOLUTIONS CAN BE ARRIVED AT IN ORDER TO PROTECT US LAW ENFORCEMENT PERSONNEL, COMPLY WITH PHIL LAW AND STILL NOT UNDULY HINDER US MILITARY LAW ENFORCEMENT FUNCTIONS.
SULLIVAN

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